

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHWESTERN DIVISION**

Rodney Lloyd Dockter,)	
)	
Plaintiff,)	ORDER OF DISMISSAL
)	
vs.)	
)	
Deutsche Bank Nat'l Trust Co.,)	
Mackoff Kellogg Law Firm, and)	Case No. 1:08-cv-099
Sandra Kuntz,)	
)	
Defendants.)	

On November 18, 2008, the plaintiff, Rodney Dockter, filed a motion for leave to proceed in forma pauperis. See Docket No. 1. On December 15, 2008, Magistrate Judge Charles S. Miller, Jr. granted the motion. See Docket No. 2. Dockter subsequently filed a complaint against the Defendants. See Docket No. 3. Pursuant to 28 U.S.C. § 1915, Judge Miller conducted a review of the record and relevant case law and submitted a Report and Recommendation on December 15, 2008. See Docket No. 4. Judge Miller found that the Court lacks the authority to consider Dockter's claims, that Dockter has failed to plead a claim on which relief can be granted, and that the claims are frivolous on their face. Judge Miller recommended that Dockter's complaint be dismissed without prejudice (including without prejudice to the filing of a paid complaint) unless within twenty (20) days he filed an amended complaint that sets forth a cognizable claim for relief. Dockter was given ten (10) days to file an objection to the Report and Recommendation. Dockter did not file an objection.

On January 12, 2009, the Court entered an Order Adopting Report and Recommendation. See Docket No. 5. Dockter filed a Motion to Reconsider on January 13, 2009. See Docket No. 7.

Dockter requested that the Court's Order Adopting Report and Recommendation be reconsidered and that he be given the "original 20 days allotted time frame to file an amended complaint based on the recommendations of the report." See Docket No. 7. Dockter mistakenly construed the Court's filings to mean that he had twenty (20) days from the date of the Report and Recommendation (December 15, 2008) to file an amended complaint. Pursuant to the Order Adopting Report and Recommendation, Dockter had twenty (20) days from January 12, 2009, to file an amended complaint. Therefore, the Court found as moot the Plaintiff's motion to reconsider. Dockter had until Friday, February 6, 2009, to file an amended complaint.

Dockter failed to file an amended complaint by February 6, 2009. Therefore, Dockter's complaint (Docket No. 3) is **DISMISSED WITHOUT PREJUDICE**.

IT IS SO ORDERED.

Dated this 12th day of February, 2009.

/s/ Daniel L. Hovland
Daniel L. Hovland, Chief Judge
United States District Court